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MONTANA LEGISLATIVE HISTORY

Chapter 72 19 91

Bill H 58 S _____ Original bill & history ____C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	Jan 17	✓C	Hearing Date(s)	Mar 06	✓C
	Jan 18	✓C		_____	____C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Jan 18	✓C		Mar 06	✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

12/31	INTRODUCED		
12/31	REFERRED TO LOCAL GOVERNMENT		
1/07	FIRST READING		
1/15	HEARING		
2/07	TABLED IN COMMITTEE		

HB 58 INTRODUCED BY DRISCOLL
ALLOW SUBORDINATION OF COUNTY TAXES
IN PROPERTY TAX SUSPENSION

12/31	INTRODUCED		
12/31	REFERRED TO TAXATION		
12/31	FISCAL NOTE REQUESTED		
1/07	FIRST READING		
1/08	FISCAL NOTE RECEIVED		
1/09	FISCAL NOTE PRINTED		
1/17	HEARING		
1/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/21	2ND READING PASSED	97	0
1/23	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
1/24	FIRST READING		
1/24	REFERRED TO TAXATION		
3/06	HEARING		
3/06	COMMITTEE REPORT—BILL CONCURRED		
3/07	2ND READING CONCURRED	49	0
3/08	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/13	SIGNED BY SPEAKER		
3/14	SIGNED BY PRESIDENT		
3/14	TRANSMITTED TO GOVERNOR		
3/19	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 77	EFFECTIVE DATE: 10/01/91	

HB 59 INTRODUCED BY HARRINGTON
CLARIFY REQUIREMENTS FOR DRIVER'S APPROVAL
FOR RELEASE OF DRIVING RECORDS

12/31	INTRODUCED		
12/31	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/07	FIRST READING		
1/15	HEARING		
1/25	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/30	2ND READING PASSED AS AMENDED	88	11
2/01	3RD READING PASSED	87	12
	TRANSMITTED TO SENATE		
2/01	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/02	FIRST READING		
3/14	HEARING		
3/20	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/22	2ND READING CONCURRED	48	0
3/23	3RD READING CONCURRED	45	2
	RETURNED TO HOUSE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS CONCURRED	83	7
4/09	3RD READING AMENDMENTS CONCURRED	93	5
4/17	SIGNED BY SPEAKER		
4/17	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		
4/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 525	EFFECTIVE DATE: 10/01/91	

REP. ELLISON asked **Mr. Spaeth** if there was a national policy relative to the greenhouse effect. He doubted that Montana acting unilaterally could make a difference, other than giving production to Wyoming. **Mr. Spaeth** said the greenhouse effect was of concern, but was difficult to debate since all aspects of it were unknown. He agreed that what was done in the state would make no difference.

REP. MIKE FOSTER asked a representative of **Montana Power** if any analysis had been done as to the effect on Montana jurisdiction customers if the new tax rate went into effect. The answer was not known; information will be provided to the committee.

Closing by Sponsor:

REP. DAVIS said he realized the bill would be referred to subcommittee. He said he was admittedly naive about coal tax. Although he thought the higher tax rate of 30% represented stability, he said maybe it did not. The intent of his constituents is to call attention to the issues.

HEARING ON HB 58

Presentation and Opening Statement by Sponsor:

REP. JERRY DRISCOLL, House District 92, Billings said the bill was submitted to correct legislation from last session. That bill, although written generically, made it possible for Pierce Packing, Billings, to reopen after a six month closure. It allowed property taxes to be held in suspension until such time as the new purchaser successfully completed three years of operation. After the legislative session ended, when the purchaser attempted to procure bank financing, it was not available because the tax lien enjoyed first lien position. Bankers would not enter into a loan which took second position behind the tax lien. This amendment moves the taxes to a second lien and so allows bank financing. An amendment is offered which adds legal wording and does not change intent. **EXHIBIT 9**

Proponents' Testimony:

Mike Matthew, Chairman, Yellowstone County Commissioners, spoke in favor of the bill as generic legislation. Using Pierce Packing as a specific example, there were delinquent taxes over $1,000,000. An operator was found and the preliminary work and employment criteria had been done. The project required that a substantial investment was needed, however, to get the plant into operable condition. Although the $1,000,000 was an advance which would have been forgiven, it was still in a first lien position. There was no authority to subordinate the first position of the tax lien for bank financing. It made that particular transaction unworkable. This is a housecleaning amendment.

Cal Cumin, Economic Development Director, Yellowstone County,

noted that all requirements for the consideration of abeyance of taxes, public hearings, determination of public interest, and so on, are already state law. Legislation passed in the last session was critical to economic development for large, out-of-operation plants throughout Montana. HB 58 results from practical experience subsequent to the last legislative session. Any time a large investment is undertaken, collateral is needed. This bill provides loan applicants a mechanism to collateralize their properties. **Mr. Cumin** said he supported the amendment which adds specific language allowing the local governing body to grant the subordination.

Kay Foster, Billings Area Chamber of Commerce, said the Billings Chamber works with national, county and city officials as well as potential buyers and supports the amended change.

Alec Hansen, Montana League of Cities and Towns said the bill has far reaching application beyond the Pierce Packing Plant example. Many plants in Montana have closed. The bill gives some leverage to get things moving throughout Montana.

Chris Gallus, Butte-Silver Bow Business and Development Center, supports the legislation. It applies to Pierce Packing now, but it is a good tool and adds flexibility to economic development in communities across the state.

Opponents' Testimony: None

Questions From Committee Members:

REP. MARK O'KEEFE asked for an example, from section 3, line 11, of "other factors" which the governing body may consider important in addition to those specified. **Mr. Hansen** said the addition of the words "other factors" leaves those factors to the local governing body. A public hearing is required to determine public interest. Wage rate, benefit package, plans for growth, where equipment and operating materials are purchased and many other things may be relevant. REP. O'KEEFE said he was concerned about how environmental factors were considered. **Mr. Hansen** said environmental factors are part of the public hearing process. They are not defined, but all of these factors can be considered. **REP. O'KEEFE** asked if it would create a problem if the committee required some environmental factors be considered, directing the responsibility to address them away from the local governing body. **Mr. Hansen** said most are already considered. Air quality standards in Billings, for instance, must be met. Water quality, sewage disposal, waste disposal...all are impacts already required by state and local law.

REP. HOFFMAN asked what the effect of the bill would be in the instance of bankruptcy. **REP. DRISCOLL** said the bill was intended to expedite the process by providing a way without going through the entire court system. The bill is not intended to allow property speculation. The problem now is that the only person in

the state who can forgive taxes is a bankruptcy judge. There is no authority for county, city or government agencies. **REP. HOFFMAN** said he would redirect his question to **Lee Heiman, Legislative Council attorney,** during executive session.

Closing by Sponsor:

REP. DRISCOLL noted the bill, if passed, would be in effect until it was amended or repealed. He asked that the amendment be passed with the bill.

HEARING ON HB 153

Presentation and Opening Statement by Sponsor:

REP. BOB REAM, House District 54, Missoula, said HB 153 was requested by the DOR. It moves the filing date for workers' compensation taxes up 20 days and makes that date consistent with the date income tax withholding is filed.

Proponents' Testimony:

Denis Adams, Director, DOR, said the bill allows the Department to use one form for the collection of both the employers' surtax and workers' compensation tax. During the 1990 special session, the employers' surtax collection was transferred to the DOR. This change is beneficial both for the Department and for employers.

Opponents' Testimony: None

Questions From Committee Members:

REP. COHEN asked if a problem might be created for some employers who are submitting money withheld but would now be required to go through a series of calculations. **Mr. Adams** said no. The calculation is required for those using private insurance carriers and those who are participants in the state plan. **REP. COHEN** asked the date when the calculation needed to be filed. **Charlotte Maharg, DOR,** said 30 days after the close of the quarter.

REP. BOB GILBERT asked if a cross-section of employers throughout the state had been contacted to determine if they were in favor. **Ms. Maharg** said employers were contacted.

Closing by Sponsor:

REP. REAM made no further comment.

Announcements/Discussion:

Vice Chairman Cohen announced the property tax subcommittee will meet 1/18/91, 8:00 a.m., room 437.

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 1/17/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON, CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN		✓	
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓	X	
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓	X	
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓	X	
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		

CS05TAXATI.MAN

EXHIBIT 9
DATE 4/17/91
HB 58

Amendments to House Bill No. 58
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
January 17, 1991

1. Page 2, line 9.
Following: line 8
Insert: " and the governing body may grant a"

VISITORS' REGISTER

TAXATION COMMITTEE

BILL NO. HB 58 DATE 1/17/91

SPONSOR Rep. Driscoll

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Kay Foster	Billings	✓	
Cal Cumin	"	✓	
Mike Mathew	"	✓	
Chris Gallus	Butte	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EXECUTIVE ACTION ON HB 58

Discussion:

CHAIRMAN HARRINGTON said the bill had to do with Pierce Packing. It has to do with economic development issues. It forgives taxes for a period so that the property can be sold.

Motion: **REP. STANG MOVED DO PASS.**

Motion/Vote: **REP. STANG** moved to amend HB 58. **EXHIBIT 4** Motion carried unanimously.

Discussion:

REP. COHEN said he didn't know what the word "subordination" meant. **REP. HOFFMAN** said, from a legal standpoint, it means to put into second position or behind what one is subordinating to. **REP. BEA MCCARTHY** said it means the person who is second in line for the mortgage.

REP. DOLEZAL asked if the intent was to forgive taxes and never collect them, or would taxes eventually be collected. **CHAIRMAN HARRINGTON** said it was his understanding taxes would never be collected. The reason for the bill is to allow sale of property. **Denis Adams, Director, DOR,** said taxes would only be deferred. If property goes into bankruptcy, taxes could not be collected. The bill will assist financing the property by allowing the tax lien to be moved to second position.

REP. MARK O'KEEFE asked for clarification on prior testimony. It has been stated that the only way taxes can be forgiven is by a bankruptcy court and that this bill would change that. **Mr. Adams** is saying that is not so. **REP. BOB REAM** restated that the taxes were deferred.

REP. ELLIOTT said Big Sky Airlines previously asked for endorsement of a bill which would have forgiven their taxes because they could not go through bankruptcy proceedings. The bankruptcy court could not do anything about the taxes owing local government. He asked if anyone else remembered the case differently. **CHAIRMAN HARRINGTON** said by forgiving the taxes in that case, the company would have had a second chance to continue to operate.

REP. MCCAFFREE asked for clarification whether taxes would be forgiven in the case of HB 58. **Mr. Adams** said no, they would be deferred. **REP. MCCAFFREE** asked at what point in time they would be due. **REP. RANEY** said they were not being deferred, but made subordinate, meaning when someone wanted to collect, the mortgagee collects before the county.

REP. HOFFMAN said the legislation, under Section 4 which is existing law, says subordination does not diminish any other claim to tax. It provides for the Commissioner to defer taxes for three years after which time taxes may be forgiven at the discretion of the governing body.

REP. DOLEZAL and **REP. O'KEEFE** asked for confirmation that HB 58 gave the local governing body the option to forgive taxes.

CHAIRMAN HARRINGTON said yes, that was current law. The word, subordination, is the key to HB 58.

Vote: **HB 58 DO PASS AS AMENDED.** Motion carried unanimously.

Discussion:

REP. RANEY asked for clarification on his earlier motion to table HB 136. Should a bill like HB 135 be sent out on adverse committee report or, to avoid having it on the floor, should it be tabled. **CHAIRMAN HARRINGTON** said action needed to be taken. It had to be sent to the floor or tabled. In this case the sponsor asked for the bill to be tabled.

EXECUTIVE ACTION ON HB 153

Motion/Vote: **REP. REAM MOVED HB 153 DO PASS.** Motion carried unanimously.

Announcements/Discussion:

CHAIRMAN HARRINGTON referred HB 34 to Income Tax Subcommittee; HB 147 and HB 151 with amendments to Property Tax Subcommittee.

ADJOURNMENT

Adjournment: 11:40

DAN HARRINGTON, Chair

MONA SPAULDING, Secretary

DH/mls

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 1-18-91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		
	✓		

1-18-91

HOUSE STANDING COMMITTEE REPORT

January 18, 1991

Mr. Speaker: We, the committee on Taxation report that House Bill 58 (first reading copy -- white) do pass as amended .

Signed: _____
Dan Harrington, Chairman

And, that such amendments read:

1. Page 2, line 9.
Following: line 8
Insert: " and the governing body may grant a"

EXHIBIT 4
DATE 1-18-91
HB 58

Amendments to House Bill No. 58
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
January 17, 1991

1. Page 2, line 9.
Following: line 8
Insert: " and the governing body may grant a"

Senator Eck felt there needed to be specific direction in the bill as to defining the purpose of the election.

Senator Van Valkenburg said the bill was drafted to address all taxing units after Senator Brown had expressed concern about community college levies. With the committee's approval, Senator Van Valkenburg said he would sign the draft so the bill could come before the committee for the necessary amendments. The committee members agreed that Senator Van Valkenburg should proceed on that basis.

HEARING ON HOUSE BILL 58

Presentation and Opening Statement by Sponsor:

Representative Driscoll, District 92, sponsor, said the bill clarifies the bill passed last session which allows forgiveness of property taxes on businesses that have been closed for more than six months when the new owners keep the business open for three years. The bill allows for subordination of the tax lien to the financing loan.

Proponents' Testimony:

Cal Cumin, Economic Development Director, Yellowstone County, said it is very important to give the first position to the lender. He urged the committee to pass the bill.

Kay Foster, Billings Chamber of Commerce, said the unions, the city and the county all support the bill.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Harp inquired about the Pierce packing plant and what had happened with that property in Billings.

Representative Driscoll replied the SBA has a $2.5 million lien against the property and $1.5 is owed in back taxes. The property is deteriorating and has been vandalized. The financing to reactivate the plant was denied because the bank did not want to be in second position. The county cannot resell the property because it is in bankruptcy court.

Closing by Sponsor:

Representative Driscoll said the bill is needed in order to get businesses open again and give an advantage to the new owners

in their financing.

HEARING ON HOUSE BILL 135

Presentation and Opening Statement by Sponsor:

Representative Lee, District 49, presented the bill to the committee as per Exhibit #1. He said the bill aligns the statutes with the Supreme Court decision as outlined in Exhibit #2.

Proponents' Testimony:

There were no proponents.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

Representative Lee closed.

HEARING ON HOUSE BILL 151

Presentation and Opening Statement by Sponsor:

Representative Stang, District 52, said the bill allows for a refund of property taxes on migratory property upon presentation of proof of taxes paid in another state. The bill originally passed in the 1987 session and was eliminated in the 1989 special session. He said the bill was amended in the House of Representatives, however, the Department of Revenue has proposed clerical amendments to present.

Proponents' Testimony:

Keith Olson, Executive Director, Montana Logging Association, said many of the members of his organization live on the Idaho border and have equipment that is used in both states. He said the bill is a simply matter of equity and is not intended to be a means of avoiding payment of taxes.

Questions From Committee Members:

Senator Halligan said he has received a letter from Greg Petesch, Legislative Council, stating there is a conflict with this bill and SB 17 and SB 82. Ms. Thompson replied there is no longer a conflict with SB 82 due to the amendments put in the bill in the House. She said she would investigate the conflict with SB 17 and report back to the committee.

Closing by Sponsor:

Representative Schye closed.

EXECUTIVE ACTION ON HOUSE BILL 58

Recommendation and Vote:

Senator Harp moved HB 58 Be Concurred In.

Senator Towe said he thinks this is the wrong approach. It is best for the county to get the property back and sell it. He emphasized his belief that Montana property taxes should not be subordinated to any lien at any time.

Senator Thayer felt this situation could arise anywhere in Montana. If there is property that could be rehabilitated and another business established by the forgiveness of the taxes owed, he felt that opportunity should be made available.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 135

Recommendation and Vote:

Senator Van Valkenburg moved HB 135 Be Concurred In.

The motion CARRIED unanimously.

DATE 3/6/91

COMMITTEE ON Taxation

HB58 HB135 HB151 HB580

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Charles Sherwood	Self	SB-373	✓	
AL CUMIN	YELLOWSTONE COUNTY	HB 58	✓	
Ethel M. Robbins	Miss. Valley Dev. Corp.	HB-58	✓	
Kay Foster	Billings Chamber	HB58	✓	
DH Buck Baker	Montana Chamber of C	HB151	✓	
Thomas Lee	HD 49	HB135	✓	
Barry Hang	Rep HD52	HB151	✓	
KEITH OLSON	MT. Logging Assn	HB151	✓	
Dennis Burr	MT Taxpayers Assn	HB151	✓	

(Please leave prepared statement with Secretary)

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 3/6/91

53rd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN			X
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 6, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 58 (third reading copy -- blue), respectfully report that House Bill No. 58 be concurred in.

Signed: _____
Mike Halligan, Chairman

LB 3/6/91
Amd. Coord.

SB 3-6-91
Sec. of Senate